

# EXHIBIT E

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

MICROSOFT CORPORATION, OPENAI, INC.,  
OPENAI LP, OPENAI GP, LLC, OPENAI, LLC,  
OPENAI OPCO LLC, OPENAI GLOBAL LLC,  
OAI CORPORATION, LLC, and OPENAI  
HOLDINGS, LLC,

Defendants.

Civil Action No. 1:23-cv-11195-SHS

**THE NEW YORK TIMES COMPANY’S FIRST SET OF INTERROGATORIES TO  
MICROSOFT CORPORATION**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and Rule 33.3(a) of the Local Civil Rules of the United States District Court for the Southern District of New York (the “Local Civil Rules”), The New York Times Company (“The Times”) requests that Microsoft Corporation (“Microsoft”) send written responses to the following interrogatories within thirty (30) days of service, to The Times’s counsel Susman Godfrey LLP electronically and/or to Susman Godfrey’s physical offices located at One Manhattan West, New York, New York 10001-8602.

**I. DEFINITIONS**

The following definitions and instructions apply to the Interrogatories listed below:

1. All definitions and rules of construction set forth in Rule 26.3 of the Local Rules of the Southern District of New York are incorporated by reference herein.

2. “Affiliate” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under any common control with, such Person.
3. “Agreement(s)” means any contract, agreement, arrangement, or understanding, formal or informal, oral or written, between or among two or more Persons.
4. “AI Model(s)” means a component of an information system and/or large language model that implements artificial intelligence (“AI”) technology and uses computational, statistical, or machine-learning techniques to produce outputs from a given set of inputs.
5. “Generative AI Models(s)” means AI Models that emulate the structure and characteristics of input data in order to generate derived synthetic content, such as images, videos, audio, text, and other digital content.
6. “Text Generation AI Model(s)” means Defendants’ Generative AI Models, including generative pre-trained transformers or large language models (LLMs), that provide text outputs in response to inputs or prompts, including but not limited to GPT base, GPT-1, GPT-2, GPT-3, GPT-3.5, GPT-4, GPT-4 Turbo, GPT-4o, MAI-1, and all other versions or other Generative AI Models included in Defendants’ Generative AI Products and Services.
7. “Complaint” means the operative complaint in the Action as of the date these Interrogatories are served.
8. “Defendants” means Microsoft and OpenAI.
9. “Electronically Stored Information” or “ESI” refers to information and Documents within the full scope of Federal Rule of Civil Procedure 34 with all Metadata intact—created, manipulated, communicated, stored, and best utilized in digital form, and stored on electronic media.

10. “Generative AI Product(s) and Service(s)” means any publicly available or commercial product or service offering that includes a Generative AI Model, including but not limited to ChatGPT branded products and services, Copilot branded products and services, ChatGPT Browse with Bing, Bing Chat, OpenAI’s soon-to-be announced search product,<sup>1</sup> APIs, and platforms otherwise providing access to a Generative AI Model.

11. “Including” means including but not limited to.

12. “Journalism,” for the purposes of these Interrogatories, means the activity of writing or creating content for newspapers, magazines, news websites, mobile applications, television, podcasts, or any other publication and/or news outlet, and includes the work of The Times as alleged in the Complaint.

13. “Metadata” refers to structured information about an electronic file that is embedded in the file, describing the characteristics, origins, usage, and validity of the electronic file.

14. “OpenAI” means Defendants OpenAI Inc., OpenAI GP, LLC, OpenAI Opco, LLC, OpenAI Global, LLC, OpenAI Holdings LLC, OpenAI, LLC, or OAI Corporation, LLC, their subsidiaries, affiliates, divisions, predecessors in interest, successors, or assignees, and their respective officers, directors, employees, consultants, representatives, and agents.

15. “Relating to” means discussing, describing, referring to, pertaining to, containing, analyzing, studying, reporting on, commenting on, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

16. “Microsoft” or “You” or “Your” means Defendant Microsoft Corporation, its subsidiaries, affiliates, divisions, predecessors in interest, successors, or assignees, and their respective officers, directors, employees, consultants, representatives, and agents.

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<sup>1</sup> See Anna Tong, *OpenAI Plans to Announce Google Search Competitor on Monday, Sources Say*, REUTERS (May 10, 2024), <https://www.reuters.com/technology/openai-plans-announce-google-search-competitor-monday-sources-say-2024-05-09/>.

17. “The Times” or “The New York Times” means Plaintiff The New York Times Company, its subsidiaries, affiliates, divisions, predecessors in interest, successors, or assignees, and their respective officers, directors, employees, consultants, representatives, and agents.

18. “Times Content” means material published by The Times, including in print, online, audio, or in any other format, whether on Times-owned platforms or available through third-party sources. “Times Content” includes all New York Times interest-specific publications, sub-brands, and products, including The Athletic, Cooking, Games, and Wirecutter.

19. “Training Dataset(s)” means the data and content used to pre-train, train, fine-tune, or otherwise affect the performance of the Generative AI Models, including any data and content used for reinforcement learning from human feedback or reinforcement learning from AI feedback.

## **II. INSTRUCTIONS**

20. These Interrogatories are continuing and require supplemental responses as specified in Federal Rule of Civil Procedure 26(e).

## **III. INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Identify all individuals with knowledge of (i) Defendants’ Training Datasets, including the existence of Times Content and other copyrighted content therein, (ii) all phases of training of the Text Generation AI Models, (iii) the business practices regarding the Text Generation AI Models, and (iv) the commercialization and use of the Text Generation AI Models.

### **INTERROGATORY NO. 2:**

Identify all individuals with knowledge about any commercial collaborations between You and OpenAI regarding the Text Generation AI Models or Defendants’ Generative AI Products and Services.

**INTERROGATORY NO. 3:**

Identify all individuals with knowledge about Defendants' practices, policies, abilities, and efforts to track users' interactions with Defendants' Generative AI Products and Services, including use of Defendants' Generative AI Products and Services by The Times and the public.

**INTERROGATORY NO. 4:**

Identify all individuals previously or presently employed by Defendants with knowledge about AI safety, ethics, harm reduction, lawfulness, and responsible AI initiatives, including those with knowledge of Your efforts to limit hallucinations and outputs containing copyrighted content.

**INTERROGATORY NO. 5:**

Identify all individuals with knowledge of any firings, terminations, lay-offs, impositions of mandatory leave, disciplinary actions, or other personnel-related actions Defendants have taken concerning individuals or teams overseeing the creation, commercialization, ethics, and management of the Text Generation AI Models or Generative AI Products and Services.

**INTERROGATORY NO. 6:**

Identify all individuals with knowledge about Your practices regarding the storage, organization, preservation, or deletion of documents related to Defendants' Training Datasets, the Text Generation AI Models, and Defendants' Generative AI Products and Services, including the contents of Defendants' Training Datasets, technical documentation, training processes, user engagement, prompts, outputs, user feedback, and analytics.

**INTERROGATORY NO. 7:**

Identify all Text Generation AI Models, including versions and release dates, and for each model, specify the existence, custodian, location, and general description of technical documentation and documentation of training processes related to that model, and whether that

model was pre-trained, trained, or fine-tuned using Times Content or otherwise affected by Times content.

**INTERROGATORY NO. 8:**

Identify all Generative AI Products and Services that incorporate, use, or rely on the Text Generation AI Models, including versions and release dates, and for each product or service, specify the existence, custodian, location, and general description of documents concerning user engagement, output, user feedback, and analytics for that product or service.

**INTERROGATORY NO. 9:**

Identify the existence, custodian, location, and general description of documents reflecting user sessions on Defendants' Generative AI Products and Services, including any logs of queries, query responses, sessions, clicks, sessions, and chats.

**INTERROGATORY NO. 10:**

Identify Your Training Datasets, and for each such Training Dataset, specify the existence, custodian, location, and general description of technical documentation related to that Training Dataset, as well as the extent to which that Training Dataset includes Times Content.

Dated: May 22, 2024

/s/ Zach Savage  
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**CERTIFICATE OF SERVICE**

I declare that I am employed with the law firm of Susman Godfrey L.L.P., whose address is One Manhattan West, New York, NY 10001. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on May 22, 2024, I served a copy of:

**THE NEW YORK TIMES COMPANY'S FIRST SET OF INTERROGATORIES TO  
MICROSOFT CORPORATION**

- ☒ **BY ELECTRONIC SERVICE [Fed. Rule Civ. Proc. Rule 5(b)(2)(E)]** by electronically mailing a true and correct copy through Susman Godfrey L.L.P.'s electronic mail system to the email address(es) set forth below, or as stated on the attached service list per agreement in accordance with Fed. Rule Civ. Proc. Rule 5(b)(2)(E).
- ☐ **BY PERSONAL SERVICE** I caused to be delivered such envelope by hand to the offices of the addressee.

**See Attached Service list**

I declare under penalty of perjury that the following is true and correct.

Executed at New York, New York, this 22<sup>nd</sup> day of May, 2024.

Alexander Frawley

/s/ Alexander Frawley

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